

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE David Gil de Rubio Santiago Debtor	CASE NO. 24-02458 ESL Chapter 13
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MOTION TO DISMISS

TO THE HONORABLE COURT:

COMES NOW, **EMI EQUITY MORTGAGE, INC. as servicer agent for FORTALEZA EQUITY PARTNERS 1, L.L.C. (hereinafter "EMI")** and respectfully states and prays as follows:

1. The captioned bankruptcy case was filed on June 12, 2024.
See Dk. No. 1
2. The proposed Chapter 13 plan dated August 13, 2024, provides for direct post-petition payments to EMI's secured claim. (See Plan filed at Dk. No. 18)
3. Debtor has not made any direct post-petition payments to EMI and currently owes three **(3)** monthly installments **for the months of July 2024 through September 2024.**
4. Post-petition arrears up to and including the month of September 2024, add to the sum of \$596.40. An additional amount of \$250.00 is requested for the attorneys' fees and costs incurred in the filing of this motion, for a total of \$846.40. See attached Statement of Account

issued by EMI EQUITY MORTGAGE, INC. as servicer agent for FORTALEZA EQUITY PARTNERS 1, L.L.C.

5. Pursuant to section 1307 (c) (1) of the Bankruptcy Code, this case should be dismissed for cause, as there has been delay on the part of the debtor that is prejudicial to creditors.
6. A certification debtor is not currently on active duty, and in compliance with applicable local rules is attached herewith.

WHEREFORE, it is respectfully requested from this Honorable Court to enter an order of dismissal.

NOTICE OF RESPONSE TIME

You are hereby notified of the filing of this Motion. If within thirty (30) days after service as evidenced by this certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, must serve and file an objection or other appropriate response to this paper with the Clerk's office of the US Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the stipulation will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: I hereby certify that the foregoing document has been electronically filed with the Clerk of the Court using the CM/ECF System which will send notification automatically of such filing to attorney for debtor, Emily Davila, Esq., davilawe@prtc.net to the Standing Chapter 13

Trustee, and to all CM/ECF participants, all creditors who have filed a notice of appearance, and by regular mail to debtor, **David Gil de Rubio Santiago 65 Cond. Park Lane Apto.702, Calle Santiago Iglesias Pantin, San Juan, P.R. 00907.**

In San Juan, Puerto Rico, this 4th day of September 2024.

**Rivera-Munich & Hernández
Law Offices, LLC**

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/s/ María S. Jiménez Meléndez
MARIA S. JIMENEZ MELENDEZ
USDC-PR 206104



STATEMENT OF ACCOUNT

September 4, 2024

Loan No: xxx0319
Debtor: David Gil de Rubio Santiago
SS No. xxx-xx- 5259
Bankruptcy Num: 24-02458 ESL
Filing Date: 6/12/2024
Chapter: 13

POST-PETITION AMOUNT:

From: 7/1/2024 **To:** 9/1/2024

3	Payments of:	\$189.33	\$	567.99
3	Late Charge:	\$9.47	\$	28.41
	Legal Fees		\$	250.00
TOTAL POST-PETITION AMOUNT				\$ 846.40
	Unapplied	0		
TOTAL AMOUNT IN ARREARS				\$ 846.40

OTHER INFORMATION

Next Due: 9/1/2012	P&I: \$	189.33	L/C \$	9.47
Int Rate: 7.500%	UPB: \$	26,779.40		

I hereby certify under penalty of perjury that the amounts stated herein are true and correct to the best of my knowledge and belief on this _____ day of _____, 2024.

Verónica Rivera, Bankruptcy Officer

EMI EQUITY MORTGAGE, INC.



Status Report
Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-5259
Birth Date:
Last Name: GIL DE RUBIO
First Name: DAVID
Middle Name:
Status As Of: Sep-04-2024
Certificate ID: FKJGW2RLL3GK0TP

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Space Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Sam Youssefzadeh

Sam Youssefzadeh, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Alexandria, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.